

The stipulations of the parties are the same as those set forth in the Award of the Special Administrative Law Judge. In addition, the parties have filed a stipulation, received by the Division of Workers Compensation on June 2, 1994, in which the parties agree that: (1) temporary total disability compensation should be awarded for the 11.43 week period of September 24 to December 12, 1991, at \$289.00 per week, for a total of \$3,303.27; and, (2) the award of future medical treatment at the expense of the respondent and insurance carrier should provide that the claimant is entitled to such future medical treatment upon application to and approval by the Administrative Law Judge or Director or, in the alternative, upon the agreement and expressed approval by the respondent or insurance carrier.

ISSUES

The Administrative Law Judge ordered the respondent and insurance carrier to pay as authorized medical expense the medical bills incurred by claimant for hospitalization and treatment by Doctors Taliaferro and Katta. The respondent and insurance carrier have requested the Appeals Board to review the issue of liability for that medical expense. That is the sole issue now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record, the Appeals Board finds, as follows:

(1) For the reasons expressed below, the respondent and insurance carrier are required to pay as authorized medical care and treatment the medical expense incurred by claimant for his emergency room visit and hospitalization at Providence-St. Margaret Medical Center, and the related medical bills of Doctors Taliaferro and Katta.

One of the physicians at the clinic that respondent selected as their authorized health care provider advised claimant that he needed referral to an orthopedic surgeon. Upon receipt of this information, claimant immediately requested respondent to provide additional medical authorization and was advised that it might take one or two weeks before claimant could see an orthopedic specialist. Notwithstanding the knowledge that claimant felt he required immediate medical assistance, neither respondent nor their authorized treating physicians scheduled a referral to an orthopedic specialist. However, respondent made statements to claimant that he had the right to consult another physician, which he did.

The pertinent portions of K.S.A. 44-510 provide:

“(a) It shall be the duty of the employer to provide the services of a health care provider, and such medical, surgical, and hospital treatment, including nursing, medicines, medical and surgical supplies, ambulance, crutches, and apparatus, and transportation to and from the home of the injured employee to a place outside the community in which such employee resides, and within such community if the director in the director's discretion so orders . . . as may be reasonably necessary to cure and relieve the employee from the effects of the injury. . . .”

“(b). . . If the employer has knowledge of the injury and refuses or neglects to reasonably provide the services of a health care provider required by this section, the employee may provide the same for such employee, and the employer shall be liable for such expenses subject to the regulations adopted by the director. . . .”

Under the facts presented, the respondent failed to provide the appropriate medical treatment as recommended by its authorized physician. Therefore, the medical bills in question incurred by claimant are the responsibility of the respondent and insurer.

(2) The Appeals Board adopts the findings and conclusions of Special Administrative Law Judge William F. Morrissey as set forth in his Award of April 6, 1994, that are not inconsistent with those specifically set forth herein.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Special Administrative Law Judge William F. Morrissey, dated April 6, 1994, should be, and hereby is, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of October, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: W. Fredrick Zimmerman, PO Box 171234, Kansas City, KS 66117
Mark E. Kolich, PO Box 171855, Kansas City, KS 66117-1855
William F. Morrissey, Special Administrative Law Judge
George Gomez, Director